IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.35366 of 1997

Dated: 15-03-2007

Between:

Siva Pulp Industries, rep. by its Proprietor: N. V. Satyanarayana,
s/o Joga Rao, Hindu, aged about 45 years,
r/o Rajahmundry.

... Petitioner

and

1. Commissioner of Labour, Andhra Pradesh,
   Hyderabad and 3 others.

... Respondents

ORDER:

This writ petition is filed seeking *mandamus* to declare the impugned order, dated 29-10-1997 in R.C.D2932/97 passed by second respondent pursuant to the demand notice issued by third respondent in R.C.No.D/2932/97, dated 13-06-1997, as illegal and arbitrary and consequently direct respondent Nos.1 to 3 to drop all further proceedings in this regard.

2. It is the case of petitioner that petitioner-industry is an egg tray

manufacturing small-scale industry and it carried out the work by engaging elder persons as workers, but not child workers. It is stated that third respondent, pursuant to the proceedings in D.O.Lr.No.N1/8304/97, dated 11-04-1997 and Memo No.N1/1306/97, dated 03-06-1997 said to have been issued by first respondent, issued a Demand Notice in Rc.No.D/2932/97, dated 13-06-1997 directing petitioner to pay a sum of Rs.20,000/- stating that petitioner has employed fourth respondent,

who was aged less than 15 years, and as such he will come under the purview of the Child Labour (Prohibition and Regulation) Act, 1986

(for short, 'the Act') and petitioner sent its reply on 25-06-1997. It is further stated that thereupon second respondent issued Notice No.B/1974/97, dated 25-10-1997 and on receipt of the same, even though proprietor of the petitioner-industry attended before second respondent on 29-10-1997 and reiterated his contentions raised in his reply to the effect that fourth respondent is aged more than 15 years, second respondent mechanically passed the impugned order, dated 29-10-1997 directing petitioner to deposit Rs.20,000/- by means of demand draft in favour of the Child Welfare and Rehabilitation Centre Fund, East Godavari District, failing which action will be initiated as per the directions of the Supreme Court in W.P.No.465 of 1986. Assailing the said order and the impugned notice, the present writ petition has been filed.

3. Heard learned counsel for the parties.

4. Facts in this writ petition are akin to W.P.No.33705 of 1997, which was disposed of by this Court, vide order dated 26-07-2006. In the said order it was held that petitioner-industry therein, which is an Egg Packing Industry, is not one of those industries mentioned in the judgment of the Supreme Court in **M.C.Mehta V. State of Tamilnadu**

and others ***(1996(6) Supreme Court Cases 756)*** and it has to be confined only to Slate Industry, situated at Markapur, Andhra Pradesh. Further, in the said order, the learned Single Judge of this Court has taken the view that the judgment referred to above has no application to industries other than the Slate Industry in Markapur, Andhra Pradesh. Further, the learned Single Judge has also held that petitioner had contravened the provisions of the Act and as such he is liable to be prosecuted in terms of Section 14 of the Act.

5. In the instant case also, as it is alleged that petitioner-industry has employed a boy aged 14 years, first respondent is hereby directed to move an application before the Magistrate concerned as provided for under Section 14 of the Act and if there is any delay in filing such application it can also move an application seeking condonation of delay.

6. With the above directions, the writ petition is allowed and the notice impugned is hereby set aside.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.15-03-2007
GLV